

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS LIABILITY
LITIGATION

MDL No. 2419
Master Dkt.: 1:13-md-02419-FDS

THIS DOCUMENT RELATES TO:

All Actions

**THE PLAINTIFFS' STEERING COMMITTEE'S REPLY
TO THE "AFFILIATED DEFENDANTS" PARTIAL OPPOSITION**

The Plaintiffs' Steering Committee responds to the "Partial Opposition by Affiliated Defendants to Plaintiffs' Steering Committee's Proposed Case Management Order," ("Partial Opposition") Dkt. No. 188, to clarify that neither the Chapter 11 Trustee for New England Compounding Pharmacy, Inc. ("NECC") nor Ameridose, LCC take any part in this Partial Opposition.

The Partial Opposition is styled as an opposition by "Affiliated Defendants." It does not define the term "Affiliated Defendants." As defined in the proposed case management order, "Affiliated Defendants" includes *all* defendants who are affiliated with NECC, and includes NECC and Ameridose.¹

The Partial Opposition was filed by Mr. Fern via the ECF system as an Opposition to the Plaintiffs' Steering Committee's Motion for entry of Case Management Order filed by the Chapter 11 Trustee.² The submitting party has since been corrected by the Clerk,³ but the

¹ That Ameridose does not join in the Partial Opposition is evident from the fact that counsel for Ameridose did not sign the pleading.

² Dkt. no. 188: "Opposition re [185] MOTION for Order to - Motion for Entry of Case Management Order - Opposition re: Section H only filed by Paul D. Moore, in his capacity as (continued...)

signature block is still signed, first, by Mr. Fern, *as proposed counsel for the Chapter 11 Trustee*.⁴ Mr. Fern does not identify himself in the signature block as counsel for any other defendants.⁵ And nowhere does the Partial Opposition make clear that it is *not* being filed on the Trustee's behalf (or Ameridose's behalf).

Lead Counsel has discussed this matter with both the Trustee and Mr. Fern. The Trustee has assured us that he does not join in the Partial Opposition. We appreciate that the docket entry has been modified to correct the filing parties. But given the ambiguity created by the use of the undefined term "Affiliated Defendants" and Mr. Fern's signature as proposed counsel for the Trustee, we respond out of an abundance of caution to clarify for the Court that neither the Trustee nor Ameridose join in the Partial Opposition.

Dated: June 24, 2013

/s/ Thomas M. Sobol

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(...continued)

Chapter 11 Trustee of the Defendant New England Compounding Pharmacy, Inc. d/b/a New England Compounding Center. (Fern, Frederick)."

³ Dkt. 188, modified on 6/24/2013 to correct the submitting parties to Barry Cadden, Greg Conigliaro, Lisa Conigliaro Cadden, Doug Conigliaro, Carla Conigliaro, Glenn Chin, GDC Properties Managements, LLC, Medical Sales Management, Inc, and Alaunus Pharmaceutical, LLC.

⁴ "Proposed Counsel for Paul D. Moore, Chapter 11 Trustee of New England Compounding Pharmacy, Inc. d/b/a New England Compounding Center."

⁵ The pleading is also signed by liaison counsel for the individual defendants, GDC Properties Management, LLC, Medical Sales Management, Inc., and Alaunus Pharmaceutical, LLC. It is *not* signed by Ameridose, LLC, who fully supports the proposed case management order.

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Plaintiffs' Steering Committee

CERTIFICATE OF SERVICE

I, Thomas M. Sobol, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: June 24, 2013

/s/ Thomas M. Sobol
Thomas M. Sobol, BBO # 471770